

SENATE RECORD VOTE ANALYSIS

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2nd Session

Vote No. 229

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Page S-8822 Temp. Record

COMMERCE-JUSTICE-STATE/Internet Gambling Ban

SUBJECT: Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for fiscal year 1999 . . . S. 2260. Kyl/Bryan amendment No. 2366.

ACTION: AMENDMENT AGREED TO, 90-10

SYNOPSIS: As reported, S. 2260, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for fiscal year 1999, will provide a total of \$33.239 billion in new budget authority, which is \$1.115 billion more than appropriated for fiscal year (FY) 1998 and is \$3.647 billion less than requested. The bill contains large spending increases for various law enforcement activities.

The Kyl/Bryan amendment, as amended, would prohibit Internet gambling. It would be illegal for a person knowingly to use the Internet or any other interactive computer service to place, receive, or otherwise make a bet or wager with any person, or to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager. The penalty for a person violating this prohibition by placing a bet or wager would be up to three months imprisonment or the greater of three times the amount wagered, the total amount received as a result of such wagering, or \$500, or both. The penalty for a person violating this prohibition by operating a gambling business would be up to 4 years imprisonment or the greater of the amount received in wagers, \$20,000, or both. Permanent injunctions on transmitting bets or wagers or information to assist in wagering could be placed against violators of this prohibition. A court could require an Internet service provider to cancel the account of a person who violated this prohibition. Other technically feasible restrictions on Internet services could be required if they did not unreasonably interfere with access to lawful material at other online locations, unless the Internet service provider could show that they were not economically reasonable. Federal district courts would have original and exclusive jurisdiction. State attorneys general could institute proceedings. The definition of Internet gambling would not include: business transactions covered by the Securities and Exchange Commission (SEC); transactions subject to the Commodity Exchange Act; contracts of indemnity or guarantee; contracts for life, health, or accident insurance; "roisserie" or "fantasy sport" leagues that

(See other side)

YEAS (90)				NAYS (10)		NOT VOTING (0)	
Republican (52 or 95%)		Democrats (38 or 84%)		Republicans (3 or 5%)	Democrats (7 or 16%)	Republicans (0)	Democrats (0)
Abraham	Hutchinson	Akaka	Kennedy	Craig	Biden		
Allard	Hutchison	Baucus	Kerrey	Domenici	Daschle		
Ashcroft	Inhofe	Bingaman	Kerry	Stevens	Feingold		
Bennett	Jeffords	Boxer	Kohl		Harkin		
Bond	Kempthorne	Breaux	Landrieu		Inouye		
Brownback	Kyl	Bryan	Lautenberg		Moynihan		
Burns	Lott	Bumpers	Leahy		Wellstone		
Campbell	Lugar	Byrd	Levin				
Chafee	Mack	Cleland	Lieberman				
Coats	McCain	Conrad	Mikulski				
Cochran	McConnell	Dodd	Moseley-Braun				
Collins	Murkowski	Dorgan	Murray				
Coverdell	Nickles	Durbin	Reed				
D'Amato	Roberts	Feinstein	Reid				
DeWine	Roth	Ford	Robb				
Enzi	Santorum	Glenn	Rockefeller				
Faircloth	Sessions	Graham	Sarbanes				
Frist	Shelby	Hollings	Torricelli				
Gorton	Smith, Bob	Johnson	Wyden				
Gramm	Smith, Gordon						
Grams	Snowe						
Grassley	Specter						
Gregg	Thomas						
Hagel	Thompson						
Hatch	Thurmond						
Helms	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

do not charge participation fees or that are limited to reasonable administrative fees for participation; information concerning parimutuel pools; any new reporting or analysis of wagering activity; any posting or reporting of any educational information on wagering; subject to restrictions to control access, otherwise legal intrastate wagers for a State lottery, a multi-State lottery, or a racing or parimutuel activity; or, subject to restrictions to control access, gambling in accordance with the Indian Gaming Regulatory Act that is conducted on Indian lands or in the applicable State in accordance with a Tribal-State gaming compact.

Those favoring the amendment contended:

Two years ago Internet gambling was a \$60 million business. Last year it grew to \$700 million, and if we do not act soon it may exceed \$10 billion by the turn of the century. Much of this activity is already illegal under the Federal Wire Act, but no one anticipated when that Act was written that the Internet would exist. The enforcement tools available under the Federal Wire Act are simply inadequate to stop Internet gambling. The Kyl amendment would correct that problem with strong Federal enforcement.

The Internet has greatly expanded the type of gambling that is possible over the phone lines (soon, with satellite communications, it is likely that some Internet gambling will not even be on the phone lines), and it has made it much easier to squander fortunes. Any child with his or her parent's credit card can now sign on to an online virtual casino and in a matter of minutes wipe out a family's life savings. In State-regulated gambling, close control can also be exercised to make sure that the games are fair, and to stop people from betting when they are losing too much, but no such controls exist for most of the gambling on the Internet. Criminals are always attracted to gambling because of the huge amounts of money that can be made through dishonest games; the only way to control that criminal activity is through very close monitoring and legal enforcement.

Gambling is a very dangerous activity for gamblers and society. About 5 percent of gamblers become addicted; about 80 percent of those who become addicted contemplate suicide and 17 percent of them commit suicide; 90 percent of pathological gamblers commit crimes to pay their wagering debts. Approximately 60 percent of those Americans who filed for bankruptcy last year had gambling debts they could not repay; the total debt written off last year from bankruptcies was \$40 billion.

Ordinarily, the States do not appreciate Federal encroachment on their powers. For the most part, gambling has been regulated at the State level. In this case, though, the States recognize that they do not have the ability to stop Internet gambling. All 50 States attorneys general have urged the Federal Government to ban this gambling and to enforce that ban. They all strongly support the Kyl amendment. Support for the Kyl amendment covers a broad range of the political spectrum. Pro-family, religious groups like the Christian Coalition, Focus on the Family, and the Family Research Council have endorsed this amendment; sports groups that are concerned about sports being corrupted by gambling, including the NCAA, the Amateur Athletic Association, the NHL, the NBA, Major League Baseball, and Major League Soccer, all strongly support the Kyl amendment, and consumer groups like Public Citizen have given this amendment their support. Other interests, such as parimutuel racing organizations and Internet service providers, initially had reservations with the amendment, but changes have been adopted to meet their concerns. The only remaining objections are from Indian groups that have been engaging in Internet gaming and from offshore gaming interests that stand to lose billions of dollars. We have already explained on the previous vote why we cannot give a special exemption for Indian tribes, and we frankly do not care if foreign casinos cannot make unregulated billions of dollars in profits off of American Internet gamblers.

Now is the time to act. Last year there were only 70 online gambling sites. Now there are 140. Next year the prediction is that there will be 500. In a few years, so much money will be involved that it will be much more difficult politically to stop this problem. We urge our colleagues to join us in passing this amendment to stop Internet gambling.

Those opposing the amendment contended:

Internet gambling is already illegal under the Federal Wire Act. That Act makes it illegal to gamble using a telephone wire. Internet communications are over telephone wires. What the Kyl amendment actually does is make some Internet gambling legal. We oppose it for that reason.